



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

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**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
THERMASTEEL RP, LTD.
FOR
THERMASTEEL'S RADFORD, VA FACILITY
Registration No. 21360**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and ThermaSteel RP, Ltd., regarding ThermaSteel's Radford, Virginia facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the ThermaSteel facility, located at 609 West Rock Road, Radford, Virginia 24141 in the City of Radford, Virginia.
6. "FCE" means a full compliance evaluation by DEQ staff.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Permit" means a minor New Source Review (NSR) permit to operate and construct a manufacturing facility that molds expanded polystyrene into different products for the building and construction industry, including insulation panels and structural panels. The Permit was issued under the Virginia Air Pollution Control Law and the Regulations to ThermaSteel on May 26, 2004.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "ThermaSteel" means ThermaSteel RP, Ltd., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. ThermaSteel is a "person" within the meaning of Va. Code § 10.1-1300.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. ThermaSteel owns and operates the Facility in the City of Radford, Virginia. The Facility is the subject of the Permit which allows air emissions related to the manufacturing of molded expanded polystyrene into different products for the building and construction industry, including insulation panels and structural panels.
2. On July 21, 2014, Department staff conducted a FCE at the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. the following emissions units were installed and operating without a permit:

- (1) One pre-puff bead tower with a rated capacity of 3,900 lbs. for each of the two compartments (A & B)
 - (2) One continuous pre-expander, which was reported to be rated at 750 pounds per hour
 - (3) One non-automated adhesive applicator
 - b. ThermaSteel staff was unable to provide annual emission records of Toluene, Hexane, and other Hazardous Air Pollutants (HAPs).
 - c. ThermaSteel staff was unable to provide records of scheduled and non-scheduled maintenance of the air pollution control equipment.
3. 9 VAC 5-80-1120(A) states that no owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source.
 4. Condition 10 (On Site Records) of the May 26, 2004, NSR permit and 9 VAC 5-80-1180 D 9 require that the permittee shall maintain records of emissions data and operating parameters as necessary to demonstrate compliance with this permit. These records shall include, but are not limited to the annual emissions of Toluene, Hexane and other Hazardous Air Pollutants calculated as the sum of the previous consecutive twelve (12) months.
 5. Condition 16 (Maintenance/Operating Procedures) of the May 26, 2004 NSR permit and 9 VAC 5-80-1180 D 6 require that in order to minimize the duration and frequency of excess emissions due to malfunctions of air pollution control equipment, the permittee shall develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance to air pollution control equipment. These records shall be maintained on site for a period of five (5) years and shall be made available to DEQ personnel upon request.
 6. On August 12, 2014, based on the evaluation and follow-up information, the Department issued Notice of Violation No. AWCRO #9007 to ThermaSteel for the violations described in paragraphs C(2) through C(5), above.
 7. On August 21, 2014, in response to the NOV, ThermaSteel submitted a permit application for the unpermitted equipment and provided the Department documentation regarding annual emissions of Toluene, Hexane, and other Hazardous Air Pollutants (HAPs) at the Facility.
 8. On August 21, 2014, with additional information provided on November 18, 2014, ThermaSteel provided the Department with newly implemented maintenance procedures and documentation which is to be used to document the operation and maintenance of the air pollution control equipment.
 9. Based on the results of July 21, 2014 evaluation and the documentation submitted on August 21, 2014, the Board concludes that ThermaSteel has violated 9 VAC 5-80-

1120(A) and permit conditions No. 10 and No. 16 of the May 26, 2004 Permit, as described in paragraphs C(2) through C(5), above.

10. ThermaSteel has submitted documentation that verifies and DEQ staff have reviewed the documentation and verified that the violations described in paragraphs C(2) and C(5), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders ThermaSteel, and ThermaSteel agrees to pay a civil charge of **\$8,000** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

ThermaSteel shall include its Federal Employer Identification Number (FEIN) (46-2264365) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, ThermaSteel shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of ThermaSteel for good cause shown by ThermaSteel, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, ThermaSteel admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. ThermaSteel consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. ThermaSteel declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by ThermaSteel to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. ThermaSteel shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. ThermaSteel shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ThermaSteel shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and ThermaSteel. Nevertheless, ThermaSteel agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after ThermaSteel has completed all of the requirements of the Order;
 - b. ThermaSteel petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to ThermaSteel.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ThermaSteel from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by ThermaSteel and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of ThermaSteel certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind ThermaSteel to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of ThermaSteel.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, ThermaSteel voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 12th day of December, 2014.



Robert J. Weld, Regional Director
Department of Environmental Quality

ThermaSteel RP, Ltd. voluntarily agrees to the issuance of this Order.

Date: 12/8/14 By: Luther I. Dickens, President
Luther I. Dickens
ThermaSteel RP, Ltd.

Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 8th day of December, 2014, by Luther I. Dickens who is President of ThermaSteel RP, Ltd., on behalf of the corporation.


Notary Public

139213
Registration No.

My commission expires: 3.31.18

Notary seal:

